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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,778	07/01/2004	Petr Kvita	HF95-22603/A/PCT	8508
324 7590 06/11/2008 JoAnn Villamizar Ciba Corporation/Patent Department 540 White Plains Road P.O. Box 2005 Tarrytown, NY 10591			EXAMINER KHAN, AMINA S	
			ART UNIT	PAPER NUMBER
			1796	
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			06/11/2008 PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,778

Applicant(s)

KVITA ET AL.

Examiner

AMINA KHAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/2/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,7,11-14 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,7,11-14 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 2, 2008 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,2,4,5,7,11,13,14 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591).

Bettiol teaches laundering fabrics for the benefit of inhibiting dye transfer (column 8, lines 1-5) with granular compositions comprising 1-25% hydrogen peroxide ore percarbonate (column 4, lines 55-65), carbonates, bicarbonates or polycarboxylates (column 6, lines 50-60), 0.1-60% surfactants of alkyl benzyl sulfonates or condensation products of alcohols and ethylene oxides (column 8, lines 35-68; column 9, lines 1-15; column 10, lines 55-65), 0.2-25% fabric softening agents (column 15, lines 50-56), 5-80% builders such as layered silicates or citric acid (column 23, lines 30-65; column 24, lines 30-35), perfumes (column 25, lines 10-15), 0.5-10% carboxy or hydroxymethylcelluloses (column 25, lines 25-40), and 0.001-10% dye transfer inhibitors such as copolymers of N-vinylpyrrolidone (column 27, lines 50-68; column 28, lines 1-10). In the examples 6 and 8, Bettiol teaches the layered silicates such as bentonites and in example 8 silicates are present with no zeolites (columns 39 and 40).

Bettiol does not teach the instantly claimed dye fixatives.

Kuzmenka et al. teach granular detergents comprising up to 90% Tinofix CL, Sandofix SWE (column 3, lines 25-60) and copolymer of N-vinylpyrrolidone (column 4, lines 1-20; example 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions of Bettiol by substituting Tinofix CL for the copolymer of N-vinylpyrrolidone because Kuzmenka teaches the functional equivalence of these dye fixatives in preventing dye transfer in detergent compositions. The substitution of art recognized equivalents only requires routine skill in the art.

It would have been further obvious to one of ordinary skill in the art to choose the carriers consisting only of bentonite and not zeolites because bentonites are known silicates, Bettiol permits the choosing of zeolites or layered silicates, and example 9 demonstrates using a silicate without the presence of zeolite.

Regarding the methods of production of Tinofix CL, they are just product by process. Any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is patentably distinct, not the examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324. The burden is on applicants to show product differences in product by process claims, see *In re Thorpe*, 227 USPQ 964 (Fed. Cir. 1985); *In re Best*, 195 USPQ 430 (CCPA 1977); *In re Fessman*, 180 USPQ 324 (CCPA 1974); *In re Brown*, 173 USPQ 685 (CCPA 1972).

4. Claims 1,2,4,5,7,11,13,14 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Eskuchen et al. (WO 01/81529) in view of Kuzmenka et al. (US 6,627,591). Since the WO 01/81529 document is not in English, the English equivalent document, US 2003/0039624, is being used for citation purposes.

Bettiol is relied upon as described in paragraph 3.

Bettiol does not teach the instantly claimed dye fixatives.

Eskuchen et al. teach granular detergent compositions comprising layered silicates as substitutes for zeolites, wherein the preferred silicate is bentonite (paragraph 0023).

Kuzmenka et al. teach granular detergents comprising up to 90% Tinfoil CL, Sandofix SWE (column 3, lines 25-60) and copolymer of N-vinylpyrrolidone (column 4, lines 1-20; example 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions of Bettiol by substituting Tinfoil CL for the copolymer of N-vinylpyrrolidone because Kuzmenka teaches the functional equivalence of these dye fixatives in preventing dye transfer in detergent compositions. The substitution of art recognized equivalents only requires routine skill in the art.

It would have been further obvious to one of ordinary skill in the art to choose the carriers consisting only of bentonite and not zeolites because bentonites are known silicates, Bettiol permits the choosing of zeolites or layered silicates, and example 9 demonstrates using a silicate without the presence of zeolite. Furthermore, Eskuchen et al. teach the layered silicates bentonites as a preferred substitute for zeolites.

Regarding the methods of production of Tinfoil CL, they are just product by process. Any difference imparted by the product by process limitations would have been obvious to one having ordinary skill in the art at the time the invention was made because where the examiner has found a substantially similar product as in the applied prior art, the burden of proof is shifted to the applicant to establish that their product is

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patentably distinct, not the examiner to show the same process of making, see *In re Brown*, 173 USPQ 685 and *In re Fessmann*, 180 USPQ 324. The burden is on applicants to show product differences in product by process claims, see *In re Thorpe*, 227 USPQ 964 (Fed. Cir. 1985); *In re Best*, 195 USPQ 430 (CCPA 1977); *In re Fessman*, 180 USPQ 324 (CCPA 1974); *In re Brown*, 173 USPQ 685 (CCPA 1972).

5. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. (US 6,156,722).

Bettiol and Kuzmenka are relied upon as set forth in paragraph 3.

Bettiol and Kuzmenka are silent as to the methods of production of the granular detergent composition.

Panandiker et al. further teaches the compositions are granular and made by combining base ingredients and spray drying to a low level of residual moisture then admixing remaining ingredients with the spray dried granules in a rotary mixing drum, and spraying on liquid ingredients to form finished composition (column 9, lines 35-45). Panandiker et al. further teaches that dye fixatives impart fabric benefits to fabrics and textile laundered in washing solutions (abstract) and improve washfastness of certain dyes (column 1, lines 30-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions taught by Bettiol and Kuzmenka by producing the granular detergents as taught by Panandiker et al. because

Panandiker teaches granular detergent compositions are conventionally made in this manner. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bettiol et al. (US 6,187,740) in view of Eskuchen et al. (WO 01/81529) and Kuzmenka et al. (US 6,627,591) and further in view of Panandiker et al. (US 6,156,722). Since the WO 01/81529 document is not in English, the English equivalent document, US 2003/0039624, is being used for citation purposes.

Bettiol, Eskuchen and Kuzmenka are relied upon as set forth in paragraph 4.

Bettiol, Eskuchen and Kuzmenka are silent as to the methods of production of the granular detergent composition.

Panandiker et al. further teaches the compositions are granular and made by combining base ingredients and spray drying to a low level of residual moisture then admixing remaining ingredients with the spray dried granules in a rotary mixing drum, and spraying on liquid ingredients to form finished composition (column 9, lines 35-45). Panandiker et al. further teaches that dye fixatives impart fabric benefits to fabrics and textile laundered in washing solutions (abstract) and improve washfastness of certain dyes (column 1, lines 30-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods and compositions taught by Bettiol and Kuzmenka by producing the granular detergents as taught by Panandiker et al. because

Panandiker teaches granular detergent compositions are conventionally made in this manner. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

Response to Arguments

7. Applicant's arguments filed regarding Bettiol in view of Kuzumenka have been fully considered but they are not persuasive.

The applicant argues that as zeolites are deleted as the present carrier the limitations of the claims are not met by the combination of Bettiol in view of Kuzumenka. The examiner respectfully disagrees because Bettiol recites both zeolites and layered silicates in the possible list of builders and recites examples with just silicates and not zeolites (see Example 8, column 40; column 24, lines 25-35). In example 6 another silicate, bentonite is demonstrated. It would have been within the skill of the artisan to select a composition comprising bentonite as the sole carrier because Bettiol teaches utilizing silicates in the absence of zeolites and bentonite is a well known silicate and is provided in a separate example. This conclusion is further supported by Eskuchen, who in the analogous art or granular detergents, teach layered silicates as substitutes for zeolites, wherein the preferred silicate is bentonite (paragraph 0023).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

/Amina Khan/

Examiner, Art Unit 1796

June 7, 2008

